

REMARKS

This paper is responsive to the Office Action mailed August 6, 2008. Claims 1-27 and 41 are pending. Claims 28-40, directed to a non-elected invention, are cancelled herein. Applicants acknowledge with appreciation the Examiner's determination that Claims 1-22 are allowable. Additionally, Applicants thank the Examiner for rejoining method Claims 23-27 and 41 in view of the allowance of composition Claims 1-22.

In view of the allowance of the compositions, the Office Action dated August 6, 2008 and the response hereto are focused on the patentability of the methods of using the allowed products, *i.e.*, Claims 23-27 and 41.

Claim 41, formerly directed to the "use" of the composition(s) in the preparation of a medicament, has been cancelled herein.

Claim 26, which was objected to for being dependent on a rejected base claim, but was otherwise indicated as allowable, has been rewritten into independent claim form. Additionally, Claim 26 has been amended herein to include the following specific viruses in addition to HIV: human papilloma virus, herpesvirus, poxvirus, Epstein-Barr virus, Sindbis virus, and adenovirus. Support for the amendment can be found on page 48, lines 6-10, of the specification.

Claim 23 has been amended herein to specify a method of inhibiting the growth of a cyclin dependent kinase (CDK)-dependent or CDK-inhibitor responsive hyperproliferative disease (tumor). Support for the amendment is apparent throughout the specification, which describes CDK inhibitors and their use in the treatment of hyperproliferative diseases or disorders.

New Claim 42 has been added to further define CDK-inhibitor responsive hyperproliferative diseases of Claim 23. New Claim 43 has been added to further define the cancer(s) set forth in Claim 42. Support for new Claims 42 and 43 can be found throughout the specification, e.g., page 47, lines 6-15 and the paragraph bridging pages 47 and 48.

Applicants note the status of Claim 27 is not clear. This claim has not been allowed; however, the claim was not rejected in the Office Action dated August 6, 2008 (or any previous Office Actions). As this claim is directed to the treatment of a specific disorder, *i.e.*, alopecia induced by chemotherapy or radiation therapy, it is believed this claim has been allowed (consistent with the Examiner's reasoning for the allowance of Claim 26 directed to methods of treating a viral infection, specifically, HIV). Applicants request clarification on the status of Claim 27.

Applicants request reconsideration and allowance of Claims 23, 24, 26, 27, 42 and 43 in view of the amendments and remarks herein.

Response to issues presented under 35 U.S.C. §112, first paragraph

In the Office Action, dated August 6, 2008, Claims 23-25 were rejected under 35 U.S.C. §112, first paragraph, in that the claims are alleged to recite subject matter which is not described in the specification in such a way as to enable one skilled in the art to make and use the invention. Specifically, the Examiner states:

"The specification, while enabling for inhibiting CDK for "treating" certain diseases, does not reasonably provide enablement for treating any type of cell proliferative disease, as claimed." (Office Action, page 3.)

"One skilled in the art would require an undue quantity of experimentation to make or use the claimed agent for treating all of the claimed types of solid or cancerous tumor diseases; however, it would not require an undue quantity of experimentation for the skilled artisan to use the invention for "inhibiting the growth of" certain specific types of viral infection and tumors that are supported in Applicants' disclosure or the prior art, with a reasonable likelihood of success." (Office Action, page 8.)

Applicants point out that the claims have been amended herein to further define the hyperproliferative diseases specified in the claims, consistent with the Examiner's suggestions above. Specifically, Claim 23 has been amended to specify:

23. A method of inhibiting the growth of a cyclin dependent kinase (CDK)-dependent or CDK-inhibitor responsive hyperproliferative disease (tumor), comprising administering to an animal a compound of any one of claims 1, 7, 9 and 11.

New Claim 42 further defines the specific CDK-inhibitor responsive hyperproliferative diseases of Claim 23, and new Claim 43 has been added to further define the specific cancer(s) set forth in Claim 42. Accordingly, the claims are commensurate in scope with the specification's teachings of effective CDK-inhibitor compounds and their use in the treatment of CDK-dependent or CDK-inhibitor responsive hyperproliferative diseases. The specific diseases/virus/cancers are supported by the specification and taught to be diseases/virus/cancers amendable to CDK inhibitor treatment.

Applicants submit that Claim 24 is fully enabled by the specification. Claim 24, as amended, recites:

24. A method of inhibiting proliferation of a cell, comprising contacting the cell with a compound of any of claims 1, 7, 9 and 11.

Applicants ask the Examiner to note that the claim specifies a method of inhibiting proliferation of a cell. No "treatment" is called for or specified in the claim as amended. Applicants teach in their specification that the compounds of the present invention are capable of inhibiting the proliferation of cells (*see, e.g.*, Assays 3-5, measuring the cell survival and cell cycle arrest after exposure to the CDK inhibitor compounds, pages 97-105 of the specification). Accordingly, Applicants submit that Claim 24 is clearly enabled and supported by the specification as filed.

In view of the foregoing remarks and amendments herein, Applicants request reconsideration and removal of the rejections presented under 35 U.S.C. §112, first paragraph, and allowance of the remaining claims.

Respectfully submitted,

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date

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